

FILED

August 18 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0437

FILED

AUG 18 2009

STATE OF MONTANA,

Plaintiff and Appellee,

v.

MELVIN MATSON,

Defendant and Appellant.

ORDER

Melvin Matson, through his counsel, the Office of the Appellate Public Defender, has petitioned the Court to allow him to file an out-of-time appeal under M. R. App. P. 4(6). Counsel states the notice of appeal was not timely filed due to an error in his office. Counsel states the Office of the Montana Attorney General is not opposed to this motion.

M. R. App. P. 4(6) provides that an out-of-time appeal will only be allowed under extraordinary circumstances amounting to a gross miscarriage of justice. Under the circumstances here presented, and given that the Montana Attorney General has no objections to the petition, we deem it appropriate to grant the petition for leave to file an out-of-time appeal. Accordingly,

IT IS ORDERED that Matson's petition for leave to file an out-of-time appeal is GRANTED.

IT IS FURTHER ORDERED that Matson shall file his notice of appeal within 7 days of the date of this Order. Thereafter, the Montana Rules of Appellate Procedure shall govern with respect to the filing of the record and briefs on appeal.

The Clerk is directed to provide copies of this Order to all counsel of record.

DATED this 18th day of August, 2009.



Chief Justice

John Warner
Barry M. ...

Leticia Cottler

Jim Rice

Justices